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OFFICE OF PETITIONS

In re Application of
Shoy & Shoy
Application No. 09/833,502
Filed: April 11, 2001
Attorney Docket No. N/A
For: COSMETIC COMPOSITION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 11, 2005 to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the August 9, 2001 non-final Office action which set an extendable three (3) month period for reply. Petitioners obtained a two (2) month extension of time and submitted an amendment on February 3, 2002. However, on that date, a three month extension of time was required. Therefore, the application became abandoned on January 10, 2002, which is day after the 5 month deadline (3 months free plus 2 months bought). The February 3, 2002 amendment was not timely filed. Nevertheless, prosecution continued and the Office mailed a Notice of Non-Compliant Amendment on April 12, 2002. No further timely communication from petitioners was received in the Office. A Notice of Abandonment was mailed on May 21, 2002.

Petitioners have submitted an amendment in reply to the August 9, 2001 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 9, 2001 non-final Office action, and the petition fee.

The petition is **GRANTED**.

Applicants are informed that Matthew J. Peirce, registration no. 41,245, has been suspended from practice before the U.S. Patent and Trademark Office for a period of two years. OG Notices: 07 June 2005. The instant application contains a power of attorney to Mr. Peirce. The Office does not communicate with attorneys who have been suspended or excluded from practice. Accordingly, this decision is being mailed to the address of the inventor first named in the application.

Applicants may, of course, file a new power of attorney in the application to have a registered attorney or agent represent them before the Office. In the absence of an attorney or agent or record, all amendments and other papers filed in the application must be signed by (1) all named

applicants unless one named applicant has been given a power of attorney to sign on behalf of the remaining applicants, and the power of attorney is of record in the application; or (2) if there is an assignee of record of an undivided part interest, by all named applicants retaining an interest and such assignee; or (3) if there is an assignee of the entire interest, by such assignee; or (4) by a registered patent attorney or agent not of record who acts in a representative capacity under the provisions of 37 CFR 1.34(a). The Office will not hold telephone interviews with or send communications to a registered patent attorney or agent who is not of record in the application.

Applicants may obtain a list of registered patent attorneys and agents located in their area by writing to: Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, or by calling the Office of Enrollment and Discipline at (571) 272-4097.

When Mr. Peirce filed the instant petition, he submitted \$75.00 over what was required. The Office will not become involved in financial issues between petitioners and petitioners' former practitioner. The Office will wait for indication as to who a \$75.00 refund is owed.

After the mailing of this decision the application will be forwarded to Technology Center 1600's technical support staff for processing the amendment filed on January 11, 2005.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.



E. Shirene Willis
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Office of Petitions